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OFFICE OF PETITIONS

In re Application of :
Adnan M. M. Mjalli *et al.* :
Application No. 10/091,759 :
Filed: March 05, 2002 :
Attorney Docket No. 41305-271123 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 21 December 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a non-final Office action mailed on 19 July 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on 20 October 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response under 37 CFR 1.111 submitted on 22 January 2007, (2) the petition fee of \$770.00, and (3) a proper statement of unintentional delay.

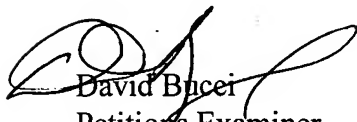
Since this application was abandoned for failure to timely reply to the non-final Office action of 19 July 2006 within the extendable six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See *Lorenz v. Finkl*, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the examiner, i.e., mailing of a Notice of Allowability and Notice of Allowance and Issue Fee Due, has been ratified. In view thereof, it is unnecessary to either vacate or remail the Notices of 17 October 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$510.00 extension of time fee submitted with the petition on 22 January 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of

this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.



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